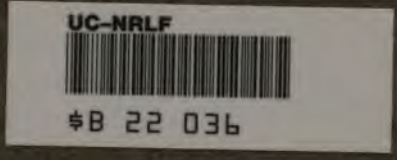

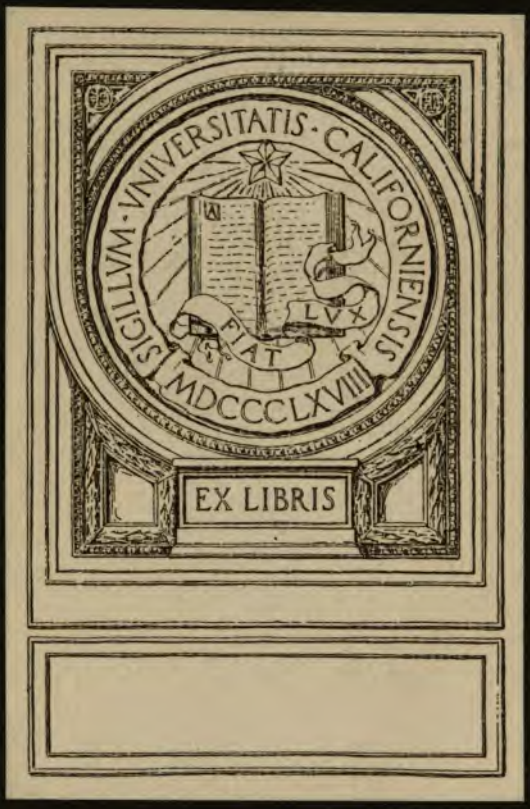
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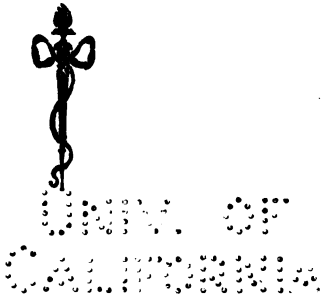
NEW DANGERS TO MAJORITY RULE

ADDRESS

BY

JUDSON KING

BEFORE THE POLITICAL SCIENCE CLUB OF
THE UNIVERSITY OF WASHINGTON
MARCH 6, 1912



PRESENTED BY MR. CHAMBERLAIN

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NEW DANGERS TO MAJORITY RULE.

A COMPARISON OF THE "CHECKS AND BALANCES" OF THE CONSTITUTION WITH THE "SAFEGUARDS AND RESTRICTIONS" PROPOSED FOR THE INITIATIVE AND REFERENDUM.

Among the arguments advanced against the adoption of the initiative, referendum, and recall there is one which must strike the average American citizen with astonishment. We are warned that if the people secure these powers, especially the constitutional initiative and judicial recall, the rule of the majority will be established, and, perforce, what will become of the helpless, unprotected minority?

President Taft, in his famous Arizona veto, used this language:

> Hence arises the necessity for a constitution by which the will of the majority shall be permitted to guide the course of government only under controlling checks that experience has shown to be necessary to secure for the minority its share of the benefit to the whole people that a popular government is established to bestow.

United States Senator Henry Cabot Lodge admires the Constitution of the United States because it protects "the rights of the individual man and of the minority against the possible tyranny of the majority," and then quotes, with great approval this statement of Lord Acton:

> Whilst England was admired for the safeguards which, in the course of centuries it had fortified liberty against the power of the Crown, America appeared still more worthy of admiration for the safeguards which * * * it had set up against the sovereign power of its own people.

President Nicholas Murray Butler, of Columbia University, New York City, in a recent address before the Commercial Club of St. Louis, denouncing direct legislation, said:

> We point to the fundamental guaranties of the British and American Constitutions and say that these are beyond the legitimate reach of any majority. * * *

This is not the kind of popular government which the American people have believed they possessed. From the beginning it has been one of their most cherished political traditions that, whatever limitations the Governments of other lands placed upon their people, in the United States a majority of the people ruled. The Constitution was not above them. "We, the people, establish"— ran the preamble, and Americans believed it. In school and college textbooks, from the press, platform, and pulpit, from the cradle to the grave they have been taught that our constitutions, national and State, were expressly designed to protect them in the right of the majority to alter the Government, or abolish it, and establish any other they saw fit.

So great has been the reverence of our people for this form of government, so deep-seated their belief that it was the best the wit of man could devise, that until recently they have turned a deaf ear to any proposal to modify it.

When corruption arose and legislative bodies betrayed their trusts, the people did not lay the blame upon the system itself. They sought by constitutional limitations to restrict the powers of legislatures. They formed new parties and endeavored, by the election of honest men, to gain control of their Government. In recent years they have tried in a thousand ways to eliminate the political boss, the briber, and the lobbyist. But in spite of their efforts they have seen this Government, State and National, steadily pass under the control of the great financial and commercial interests, and the American people now know that they are not the masters of their own Government, but are actually ruled by a very small minority indeed.

Taught by failure the weaknesses of the uncontrolled representative system, the people are now preparing to insure majority rule by direct exercise of the law-making power whenever they see fit to exercise it. If the legislature fails to prepare and submit amendments to the Constitution desired, or enact the laws demanded, the people will propose such amendments or laws by initiative petition and enact them at the polls. If the legislature enacts laws not desired by the people, they can be suspended by referendum petitions from taking effect, and a vote taken upon them at the following general election. If a public official becomes corrupt or incompetent, a recall petition can be circulated, an election held, and he be immediately discharged and another man elected to fill his place.

Already several States and a large number of cities have secured these powers. Their direct object is to establish the rule of the majority. It is the only method by which that rule can be established. The interests can always reach a small delegate body, but they can not control the whole people.

And now, when this movement toward genuine popular government seems likely to sweep the country and be established in every State within a few years, we are flatly told by the President of the United States, famous as a jurist, and by high constitutional authorities that the people have no right to such powers and that the Constitution of the United States is expressly designed to prevent the majority from ruling the minority in certain particulars, which they fail to specify.

Which of these two theories, then, is right? Is it possible that the people of this country have been under a delusion concerning their own form of government all these years? However much we may dislike to have our cherished traditions and beliefs shattered, if we examine the matter with unprejudiced minds we shall find that President Taft, Senator Lodge, and all the others are quite right. More than that, the Constitution was not only designed to protect a certain minority, but to give that minority controlling power in Government—State and National.

Within the last few years there has arisen a group of scholars who are telling the truth about the inner import of the Constitution. Among them none ranks higher or has done more telling service in the cause of the people than Dr. J. Allen Smith, of Washington University. His great book, "The Spirit of American Government," has been a revelation to thousands of thinking men, because it sets forth clearly what really happened at the constitutional convention of 1787—and what is the real reason why our State governments are

so unresponsive to the will of the people. Concerning the underlying motive of the men who framed the Federal Constitution he says:

> They recognized very clearly that there was a distinct line of cleavage separating the rich from the poor. They believed with Hamilton that in this respect "all communities tend to divide themselves into the few and the many," that the latter will tend to combine for the purpose of obtaining control of the Government, and, having secured it, will pass laws for their own advantage. This, they believed, was the chief danger of democracy—a danger so real and imminent that it behooved the few to organize and to bring about, if possible, such changes in the Government as would protect the minority of the opulent against the majority. This was the purpose of the system of checks by which they sought to give the former a veto on the acts of the latter.

In an illuminating chapter on the "Checks and balances of the Constitution" Dr. Smith discusses the complex system of restrictions by means of which the propertied minority was to control the numerical majority. Among these of direct import to this discussion we may note:

1. Amendment was made practically impossible by requiring a two-thirds majority of each House to propose and a three-fourths majority of the States to adopt any change. "One-twentieth part of the people could prevent the removal of the most grievous oppression by refusing to accede to amendments."

2. The judiciary was made irresponsible to the people, and the way opened for it to exercise enormous powers, by "interpretation" and veto of statutes.

3. The President and Senate, by a process of indirect election, were made as little responsible to the people as possible, and then given the preponderating power in the Government—this as a direct check upon the lower house, which was expected to be radical. That is, the minority could control all legislation "initiated" by the people's direct representatives.

4. No adequate system of publicity of the doings of Congress and the Government was provided for, and the people were to be kept in ignorance.

The unpleasant truth, then, is that the people had the name and form of popular government, which theoretically allowed them to rule, but the instrument was so cunningly devised that practically it was impossible for a majority to actually carry its will into effect. The Constitution was, as has been aptly said by a distinguished writer, "A coup d' etat of the propertied classes." It has more than fulfilled the expectations of its creators. Says Prof. Smith:

> The so-called evils of democracy are very largely the natural results of those constitutional checks on popular rule which we have inherited from the political system of the eighteenth century. It would do much to advance the cause of popular government by bringing us to a realization of that fact.

The propertied classes then constituted that sacred minority which the guaranties of the Constitution were designed to protect. And to-day it is the servants of and apologists for the propertied classes of our own time, in State and college and editorial sanctum, which defend these guaranties. In the old time they denied suffrage to the veterans of the Revolutionary War unless they owned property. The very men who made America possible were denied a voice in its Government. In our time the propertied classes have fought the Australian ballot, the direct primary, the corrupt-practices acts, the direct election of Senators, the presidential primary, but especially

is their wrath aroused over the proposal for the initiative on constitutional amendments and the recall of judges. Their supremacy in the commercial and political world lies in their control of the making and interpreting of constitutions. They know that with these powers in the people's hands, beyond the reach of seduction and bribery, the way is clear for the rule of the numerical majority. This is the secret of their opposition.

I have called your attention to this phase of our national history to emphasize the truth that all is not democracy that goes by that name; that theory is one thing and practice another; that the governmental machinery by which the rule of the people is to be secured is of equal importance with the principles of republican government. The lesson is of importance to us because democracy is in identically the same danger to-day from abortive forms that it was in the eighteenth century.

The same influences in government which secured the insertion of "checks and balances" in the Constitution, State as well as National—for we must not forget that the State governments were modeled on the National—now propose to prevent the rule of the majority by means of "safeguards and restrictions" placed upon these new tools of democracy—the initiative and referendum. They are succeeding well, and if we are not careful the people will be as helpless under this system as under the uncontrolled representative system. Already 14 States have direct legislation in some form, and in 7 of these it is of little or no practical value.

It is to the practical results of these "safeguards and restrictions" to which I wish to direct your attention, since they constitute the new danger to democracy.

The Constitutional Initiative.

Whenever a constitutional amendment providing for the initiative and referendum is under consideration in a State legislature the one thing most bitterly contested by the corporation politicians is the right of the people to propose amendments to the Constitution by initiative petition and adopt them at the polls. The motive is perfectly clear. The privileged classes—that is the "minority" for which President Taft is so solicitous—are secure in their privileges so long as they are protected by constitutional barriers. Statute law can not touch them. Let the people try to regulate railroad rates, establish equitable taxation, protect labor, curb the power of corporations, and quickly they find themselves, in popular parlance, "up against" the Constitution. If such laws are passed they are quickly attacked as "unconstitutional," and the Supreme Court becomes the real legislature. In New York it is unconstitutional for the State to establish a nine-hour work day for women in certain employments. In Kansas it is unconstitutional for the State to own and operate oil wells. And so on ad infinitum. But the people can not vote upon a change in the Constitution unless permitted to do so by the legislature. In many States this requires a two-thirds vote; that is, a minority can prevent a change; the progress of the people is checked. And if we examine the methods of submitting amendments we shall find them as a rule made very difficult.

But under the "initiative" the people could secure desired changes within a short time. No power of money or politicians could stop them. Therefore, the objection to the constitutional initiative.

Hence, when you read that some State has triumphantly secured the rule of the people by adoption of the initiative and referendum, remember to inquire if the constitutional initiative is included. If it is not, that State is not free, and the most essential thing to democratic government has been omitted.

An Impossible Majority.

The next most important "safeguard" demanded by the reactionaries and dangerous to popular government is to require an impossible popular majority for the adoption of initiated measures or the rejection of acts of the legislature under the referendum. Let me illustrate this point by concrete examples.

Initiative and referendum measures are usually voted upon at general elections. A space at the bottom of the ballot is reserved for measures, and candidates are voted upon above.

In Oklahoma it is provided that all measures submitted by the legislature or by initiative petition, to be adopted, must receive a favorable majority of all votes "cast in said election." Since the adoption of the constitution in 1907 five important measures which received majorities of from 27,994 to 58,503 of the voters casting votes on these measures were lost because they did not get the required majority of all the votes cast for candidates. Not a single measure has been passed under this requirement at a general election, and in Oklahoma the initiative is recognized to be practically a dead letter.

Let us see what this thing means. I have here a table of these votings.

Popular vote on measures submitted in Oklahoma election, 1908.

[L. Submitted by the legislature. I. By initiative petition. R. By referendum petition.]

	Yes.	No.	Majority approving.	Majority rejecting.	Per cent voting.
Agency system (L.)	105,392	121,573	.....	16,181	88
Torrens land system (L.)	114,394	83,888	30,506	.....	77
Location State capital (L.)	120,352	71,933	48,419	.....	74
Model capital city (L.)	117,441	75,792	41,649	.....	75
Sale of school lands (I.)	96,745	110,840	.....	14,095	80
Total vote, 257,240.					

Popular vote on measures submitted in Oklahoma election, 1910.

	Yes.	No.	Majority approving.	Majority rejecting.	Per cent voting.
Pro rata distribution corporations' school tax (L.).	101,636	43,133	58,503	.....	57
Amendment permitting railroads to consolidate (L.)	83,169	55,175	27,994	.....	54
Bill establishing model capital city (L.)	84,336	118,899	.....	34,533	80
Woman's suffrage amendment (I.)	98,808	117,736	.....	39,880	85
Local option amendment (I.)	105,041	126,118	.....	20,077	91
Election law (R.)	80,146	106,459	.....	26,313	70
Total vote, 254,730.					

By this table we find that an average of 75 per cent of the citizens vote on measures submitted to them. It varies from 54 to 91, the average is 75 per cent. That is to say, the will of a majority of the active, intelligent voters concerned for the public welfare was defeated by the 25 per cent of careless, ignorant, or indifferent voters who failed to vote upon them at all. But in this same election, as everywhere in America, every candidate was elected to office if he received, not a majority, but a plurality of the vote cast, upon the office for which he was running.

Contrast Oklahoma with Oregon. In Oregon measures submitted to the people are enacted or rejected by a majority of the votes "cast thereon." Since the adoption of the initiative and referendum in 1902, 29 measures have been approved by the people, 20 of which would have been lost had the Oklahoma provision been in effect. Among them we note the local option law favored by the temperance forces, the home-rule amendment for cities favored by the liquor interests, the recall of public officials, the presidential primary, the corrupt-practices act, the municipal and county initiative and referendum, the people's control of constitutional conventions, the judiciary reform bill and three-fourths jury verdict, the employers' liability bill, the good-roads amendment, the new insane asylum, and so on.

In short, a large proportion of the reforms by which Oregon has routed the political bosses and achieved fame as a State governed by its people would have been lost had this little "joker" requiring a majority of all votes cast been allowed to go into the direct legislation provision, instead of a majority of all votes cast thereon. The tremendous progress made against the terrific opposition of the railroads, the corporations, and political machines would have been blocked, not by intelligent opposition, but by a "safeguard"—the effect of which is to virtually have counted against progressive measures the ignorant and careless who do not care a button about good government.

Because these important measures did not receive an absolute majority of all the votes cast for candidates, or of all the voters in the State, the eminent gentlemen we have quoted heretofore and others throughout the country are warning against the grave danger of "minority rule."

Let us pause here to inquire what class of voters do not vote upon measures. In the election of 1908, in the notorious "Silver Moon" precinct in Cincinnati, there were cast 496 votes for President and 17 on the taxation amendment. In "Bucktown" (colored) there were 308 votes for Taft and Bryan and 1 vote on the taxation amendment. Judge Thomas McBride, of the Oregon Supreme Court, tells me that once he examined every ballot cast in Multnomah County, in which Portland is situated, to determine a disputed election. Being interested in this very question, he took note and found the lightest vote cast on measures was in the slum wards and foreign sections of the city. This is the testimony of similar observers throughout the country. On the liquor question alone it does not apply.

The irresistible conclusion is that the 75 per cent of voters who, in the average of cases decide issues, constitute the intelligent, active citizenship of the State; the men who do things. They do things the bosses and "propertied minority" and Senator Lodge do not

want done—the election of United States Senators by a vote of the people, for example. The testimony shows that the 25 per cent who do not vote on measures are the ignorant, indifferent voters. And yet the very men who object most strenuously to the initiative and referendum in the hands of the people because of their alleged ignorance and instability demand that the most ignorant and most indifferent be given influence in the decision of questions in which they are not interested enough to cast a ballot upon.

MINORITY RULE.

When Senator Lodge makes that as an argument against the rule of the people by the initiative and referendum I should think the words would burn his tongue. For a generation a majority of 90 men in the Oregon State Legislature throttled progress in that State, and its corruption was a stench in the nostrils of the Nation. In 1910 an average of 88,742 free, uncorrupted citizens cast their ballots upon the measures submitted. Is a majority of 90 men greater, wiser, safer, more honest than a majority of 88,000 men? Is a majority of any State legislature in this country safer than a majority of even half the voters of that State?

No, the American people are not prepared to be frightened at this talk of "minority rule" when public issues are settled in an open field and a fair fight, with every citizen given opportunity to express his will. But there is another kind of minority rule they do fear and which they propose to end. Why does not Senator Lodge decry that sort of minority rule by which one political boss controls a city council and barters away franchises worth millions of dollars? By which half a dozen corporation lawyers control a State legislature and one or two gigantic combinations of capital control the Congress of the United States? Let him answer that and we will have more confidence in the sincerity of his opposition to direct legislation and his fears of minority rule.

First fix your constitution favorable to the propertied minority and then make it difficult or impossible to amend is the demand of the conservatives. Eleven States have tried out the "majority of all votes cast in the election" safeguard. What have been the results? Prof. Dodd, in his able work on "The Revision and Amendment of State Constitutions," tells us that it "has made constitutional revision practically impossible." No amendment has been adopted in Indiana since 1881, nor in Nebraska since 1881, nor in Ohio since 1851, by this system. Out of 15 questions submitted to the people of Illinois from 1896 to 1910 only 4 received a majority of all votes cast; and amendments of vast importance which received majorities thereon of over 300 000 were lost.

This "safeguard" of a majority of all votes cast is the most deadly "joker" that can be inserted in any amendment. All the patriotism, education, and effort under Heaven can not arouse that class of apathetic voters who are by this system without their knowledge placed as a barrier in the way of progress. Curiously enough it bears a striking resemblance to that "check" in the Constitution which permits one-third of the Members of Congress to prevent the submission of an amendment, since in this case one-third of the vote cast on a measure, if cast against, will defeat it. And again the 25 per cent who do not

vote parallel the one-fourth of the States which can defeat the adoption of an amendment when submitted.

A man who does not exercise his right to vote upon a question should not be permitted to influence the decision one way or another. Abraham Lincoln, in his opinion on the admission of West Virginia, stated the case most clearly, and his argument is unanswerable. He said:

> It is a universal practice in the popular elections in all these States to give no legal consideration whatever to those who do not choose to vote, as against the effect of the votes of those who do choose to vote. Hence it is not the qualified voters, but the qualified voters who choose to vote, that constitute the political power of the State.

PETITIONS.

Under the system established by the founders of our National Government we have seen that a minority of one-fourth of the States could defeat any constitutional amendment. For statute laws passed by a majority of the two houses of Congress there was a veto provided for the President, and the two-thirds majority required to pass a measure over his veto or to impeach him, thus giving the one-third minority power to block progressive legislation. And after that came the Supreme Court with power to veto by the word "unconstitutional" or to destroy by interpretation. The Standard oil case, of recent date, is a shining example. All these barriers correspond, in the representative system, to the "majority of all votes cast" under a direct legislation system.

The next thing of importance to the fathers was to make the initiation or start of any measure as difficult as possible. This was accomplished by requiring a two-thirds vote in each House and approval of the President necessary to submit an amendment to the Constitution, a rule adopted in most States. In actual practice it has proven very effective and practically prohibitive on the most vital issues.

Under direct legislation, the power of initiative is taken from the legislature and placed in the people. The people can start things going by popular petitions. The obvious thing then, for the conservative, is to make it just as expensive, difficult, and burdensome to secure these petitions as possible. The people will speedily become discouraged if this is done, and the power of the initiative minimized. Hence it is argued that petitions must be large. They must be distributed widely over the State; they can not be freely circulated, but the voters must go to the courthouse to sign them; and so on. It is assumed that these petitions will be signed as easily as those of the old style begging sort, and that unless the petition is "carefully safeguarded" the ballot will be flooded with crank proposals and the State be put to enormous expense for their submission.

It is one of those rare instances in which a political boss becomes suddenly solicitous for public economy. We must remember that strict requirements are made in every State where the initiative and referendum are in operation, that every sheet of signatures must be sworn to before a notary, and that the solicitor believes every signer to be a voter. Also that whole petition must be checked carefully by the State officials and compared with the registration books, and thousands of signatures are thrown out because they are illegible or technically imperfect.

An 8 per cent petition in Oregon requires about 8,500 actual verified signatures and, unless promoted by a powerful organization, costs $1,500, in addition to the volunteer work. But a 10 per cent unverified petition in Illinois, asking for an advisory vote on three popular propositions, filed in 1910, required 115,500 signatures and cost nearly $10,000. To get this petition under Oregon conditions would have cost $20,000. The notary seals alone would have cost over $2,500. I pause here to say that in Illinois it is ninety times as easy to put a candidate for a State office in the running as it is to put a popular law in the running for a mere advisory vote; that is, to ask the legislature to enact it.

If an expression of the public will is a desirable thing, and if the people are to be encouraged and not discouraged in civic activities, a petition should require only sufficient signers or "seconds" to warrant taking a vote. The petition decides nothing; it is merely a "motion" similar to that employed in parliamentary bodies to get a question before the house for discussion and decision. It should be large enough to prevent trivial or unimportant questions being submitted, but not so large as to go beyond the reach of that body of patriotic citizens, interested in good government, with little organization, of small means, and no ax to grind or selfish interest to promote. No possible petition within reason can bar out the railway companies, the corporations, the brewery interests, or the well-organized temperance forces with the churches at their command. To require high petitions simply places the use of the initiative and referendum in the hands of the wealthy classes who can afford to hire solicitors in large numbers.

Next to a large petition the most effective "safeguard" to hamper its effectiveness is to require its distribution. This forces the promoters of a petition to get, as in Montana, the required per cent in each of two-fifths of the counties of the State. Hence they must leave the populous centers and go to the agricultural sections, where the people are widely scattered and the cost and trouble is enormously increased. This "joker" effectually prevented the success of several petitions circulated in Montana between 1906 and 1911. It has been adopted in Nebraska and in Ohio in modified forms, and unless it is excluded from amendments will become one of the most successful methods of blocking progress.

The right of petition has cost humanity a long struggle. It is embedded in all American constitutions, and no one would dare to question it. So long as it is a mere request it does not trouble the corporations. But when it is proposed to give legal force to a petition and make it impossible that it be ignored; to give the people the power to decide upon its worth and clothe it with the authority of constitutional or statute law, it is quite another matter; it is fought to the death, and when no longer able to withstand the movement for its elevation to dignity and power, the politicians seek to deprive it of its effectiveness by so-called "safeguards and restrictions"—for fear perchance that the people might be overburdened.

The "Emergency Clause."

The "interests" justly regard the initiative, especially the initiative on constitutional amendments, as the most dangerous to their control of government. Their greatest concern is to maintain the status

quo and they know this can not be done with the initiative in the hands of an intelligent and patriotic people who are determined to place the rights of humanity above the rights of a few millionaires to make money. It is the call of the twentieth century and constitutions must make way.

But it is also highly desirable now and then for the politicians and corporations to pass new laws favorable to their interests, to secure some franchise, or alter some existing law. Therefore it becomes necessary to destroy the referendum by indirection since with an effective referendum in hand the voters can veto their proposals. Let us examine the ways in which this can be done and has been done.

First, it can be provided that all laws passed by the legislature on certain subjects shall be exempt from the referendum. Secondly, it may be provided that when a referendum petition is filed against a law, the law shall not thereby be withheld from going into operation, but shall continue effective until a vote is taken and it is repealed by the people. This will allow the law to operate for over one year usually, and in case of a transfer of valuable public property, or granting a franchise, the repeal would come too late. Thirdly, since the usual amendment forbids laws passed by the legislature to go into operation for 90 days after passage in order to give opportunity for referendum petitions to be filed, an "emergency clause" is provided which allows a law to go into instant operation when the legislature declares such law is "necessary for the immediate preservation of the public peace, health, or safety." If the "emergency clause" simply permits quick operation but keeps the measure still subject to a vote of the people later, well and good. But if it is so drawn that an "emergency measure" is exempted from the operation of the referendum, and that by a majority vote, the real power of the referendum is lost and the people are powerless against the legislature. Six States have this sort of a referendum clause in their constitutions. In South Dakota 40 per cent of the laws are passed as "emergency laws." This, then, is the way to have the referendum and not have it.

The Arbitrary Limit.

Still another "restriction" which we are likely to hear much of in the future is to set a definite limit to the number of questions which may be submitted at any one election—say, 5 or 10. Then, whenever important progressive measures are likely to be initiated by the people, the legislature may exclude them from the ballot by hastily submitting the required number of constitutional amendments or laws. Or, if the number is limited to measures submitted by petition, the interests may fill the ballot with measures of their own—and postpone action on the popular proposals.

It is not well that too many questions be voted on at the same election, but the difficulty lies in what limit shall be set, and who is to determine what measures are to be submitted if the limit is exceeded. There is little danger, however, from a multiplicity of measures. The people have a greater capacity for discrimination than they are given credit for—especially when proper publicity is provided for; and further, when legislatures do their duty, there will be little need for the employment of the initiative and referendum. If they do not, the free action of the people to obtain needed relief should not be limited by any arbitrary provision.

PUBLICITY.

But if in the struggle to secure popular government we have excluded the "restrictions and safeguards," so called, and an initiative and referendum amendment which gives the people the substance of power, not merely its form, there is one thing still necessary to insure the full benefits of the new system. There must be proper publicity. The people must be fully informed on the issues they are to decide at the ballot box. This is quite as necessary to guarantee a full vote on the measures as it is to educate the citizens as to the worth of these measures.

It will not do to leave this matter to the newspapers and political orators, because the very interests which oppose direct legislation very largely control the press and opinion-forming agencies, and if the people are misinformed confusion and uncertainty will result. Nor will it suffice to publish the proposed measures in newspapers, being but $47,610.61 from 1904 to 1910, inclusive, during which time 64 measures were submitted. The Arkansas Legislature of 1911 unfortunately adopted the newspaper advertising system, and this year it is reported that Secretary of State Hodges estimates the publishing of the measures will cost the State in the neighborhood of $100,000. This is probably exaggerated. But much better publicity at a fraction of this cost could have been secured by the pamphlet system. In Colorado the legislature, against the wishes of the friends of direct legislation, provided for newspaper advertising in the amendment itself when submitted to the people. This year the legislature, in order to insure a vast expense and disgust the people with the initiative and referendum, submitted seven long measures. Ten important measures were initiated by the Direct Legislation League and several by other organizations. The cost to the State will be enormous. This will be used as an argument against the principles of direct legislation. But the league has initiated an amendment to the amendment, providing for the Oregon pamphlet system, and this will be the last occasion for such expense if it is adopted by the people.

So we see the same instinct which led the founders of the Constitution to provide no adequate means of informing the people of the transactions of the Federal Congress now leads the politicians to oppose an effective means of educating the voters on submitted measures. Every State legislature with the exception of Oregon, and recently South Dakota, has refused to adopt a modern system of publicity. Public intelligence is a dangerous thing for men who want to operate in the dark.

The problem of successful popular government is to get the will of the people carried into effect promptly. Beyond question the "checks and balances" of the present representative system have been responsible for many of the evils from which we suffer to-day. It is impossible to get satisfactory representation with machinery so complex and cumbersome; hence arises the apathy of the public mind. After so many failures to adjust things, only to be defeated in the end, men exclaim, "What's the use?"

It is not likely that the best uncontrolled representative system that could be devised would meet the needs of to-day. So far-reaching and all-powerful is the influence of concentrated capital that

the power of the whole people directly and finally expressed is alone sufficient to cope with the situation.

The rise of modern commercialism in the middle of the last century put a tremendous strain upon modern governments. The advent of the railroad, steam, electricity, the factory system, and the centralization of capital brought private interests to the doors of the statehouse seeking and securing privileges, legal rights, and protection which militated against the common welfare.

In the Republic of Switzerland the danger to liberty and to the existence of democratic government from this source was early perceived. With characteristic promptness and thoroughness the Swiss people went directly to the root of the problem and deprived their representatives of the power to deliver them into the bondage of the few. They did this before the railroads, the banks, and the great stock companies, which correspond to our corporations, had secured control of their Government. It was in 1869 that the first modern initiative and referendum system was established in the Canton of Zurich. Within a very few years all the Cantons of Switzerland had followed suit. In 1874 the referendum, on petition of 30,000 voters, was made applicable to Federal laws. In 1891 the constitutional initiative was applied to national measures. Having the machinery of government wherewith to exert their power, the people of Switzerland have ruled. The "opulent minority" have not dominated the numerical majority. Capital has been subordinated to human welfare. Political corruption is practically unknown. It is an honor to serve the public. And however much critical investigators may find fault with particular statutes which have been adopted or rejected by the Swiss people, it remains true that the Swiss Government represents a majority of the Swiss people and that to-day it is the best governed and most democratic country in the world.

In the United States we have let commercialism have full sway. We are endeavoring to regulate a power which has become stronger than the Government itself, by means of the political machinery of the eighteenth century. There is but one method by which at this late day the power of the people in government can be restored and the Republic saved from becoming a financial oligarchy. That is through direct action of the whole citizenship. The channel for that direct action is the initiative and referendum. A majority of the people see that the old channels are not sufficient. The new ones are being constructed. The problem is, Shall they be made strong and clear and permit a constant, authoritative and final expression of the will of the majority, or shall they be so restricted and hampered that the twentieth century will repeat the history of the nineteenth century and democracy fail because of undemocratic political machinery?

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